

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LEAGUE OF UNITED LATIN AMERICAN	§	
CITIZENS, <i>et al.</i> ,	§	
<i>Plaintiffs,</i>	§	Case No. 3:21-cv-00259
	§	[Lead Case]
v.	§	
	§	
GREG ABBOTT, <i>et al.</i> ,	§	
<i>Defendants.</i>	§	

**STATE DEFENDANTS’ RESPONSE TO LEAGUE OF UNITED LATIN AMERICAN CITIZENS
(LULAC) PLAINTIFFS’ ADVISORY**

Defendants Greg Abbott, *et al.* (“State Defendants”) file this Response to LULAC Plaintiffs’ Advisory to the Court, **ECF 952**, the topic of which was State Defendants’ Motion to Exclude, **ECF 920**. LULAC Plaintiffs filed their Advisory after the Court inquired “whether it intends to oppose the State defendants’ motion to exclude Dr. Grumbach’s reports and data and, if so, to respond to the motion.” **ECF 944 at 1**.

Instead of answering the Court’s question or responding with an argument on the merits, LULAC Plaintiffs instead “urge” the Court to declare the Motion to Exclude moot and deny it. **ECF 952 at 1**. State Defendants ask this Court to instead grant the Motion to Exclude as to Dr. Grumbach, for two reasons.

First, LULAC Plaintiffs apparent disavowal of Dr. Grumbach’s opinions does not resolve the issue. LULAC Plaintiffs state that “they do not *intend* to rely on the testimony of Dr. Jacob Grumbach” (emphasis added) and that they have not listed his reports on their exhibit list. *Id.* While LULAC Plaintiffs may not currently intend to use Dr. Grumbach’s reports, that could change later and is not enough in itself to moot the motion. Also, other plaintiffs might use

Dr. Grumbach's reports. Short of a stipulation from all plaintiffs that they will not utilize Dr. Grumbach's reports, or data, the Motion is not moot.

Second, LULAC Plaintiffs' proposed mootness argument does not clarify their use of the data on which Dr. Grumbach relied, which LULAC Plaintiffs provided to Dr. Grumbach and which is both incomplete and inaccurate. *See* ECF 920 at 4-12. LULAC Plaintiffs' advisory makes no mention of this data, which was the second part of the Court's inquiry in **ECF 944**. To the extent that LULAC Plaintiffs intend at trial to use election analyses related to endogenous or exogenous elections from 2022-2024, State Defendants want to ensure those analyses are not based on the same data that was provided to Dr. Grumbach. If the Court does not grant the Motion to Exclude as to both the reports and the data, State Defendants' rights would be prejudiced if the same data is used by LULAC Plaintiffs' trial witnesses.

State Defendants respectfully ask the Court to grant their Motion to Exclude the 2025 reports of Dr. Grumbach and any data he relied upon and have attached a proposed order to that effect.

Date: May 6, 2025

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 6, 2025, a true and accurate copy of the foregoing document was filed and served electronically (via CM/ECF).

Ryan Kercher

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